

REGULAR MEETING

December 11, 1995

The Regular Meeting of the Annapolis City Council was held on December 11, 1995 in the Council Chamber. Mayor Hopkins called the meeting to order at 7:30 p.m. Alderman Hammond offered the invocation followed by the Pledge of Allegiance.

Present on Roll Call: Mayor Hopkins, Aldermen Hammond, Johnson, Gilmer, Tullier, Snowden, Turner, DeGraff, Moyer

Staff Present: City Attorney Goetzke, Planning and Zoning Director Fogarty, Public Works Director Patmore, Transportation Director Chase, Fire Chief Sherlock

Alderman Johnson moved to approve the Minutes of November 13, 1995. Seconded. CARRIED on voice vote.

Pursuant to the requirement of Maryland Annotated Code, State Government Article Section 10-509(c)(2), this statement is included in these minutes:

A closed session of the City Council was held at 6:16 p.m., Monday, December 11, 1995 in the City Attorney's Office.

Members Present: Mayor Hopkins, Aldermen Hammond, Johnson, Gilmer, Tullier, Snowden, Turner, DeGraff, Moyer, City Attorney Goetzke, John L. Prehn and City Clerk Bembe.

The authority under which the session was closed was Maryland Annotated Code, State Government Article, Sections 10-508(a)(1) (i). The purpose of the meeting was the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction. The following action was taken:

Appointment of City Administrator

Alderman DeGraff moved to confirm the Mayor's appointment of John L. Prehn, Jr. as City Administrator effective January 1, 1996 at a salary of \$60,801 per annum. Seconded.

Alderman DeGraff moved to amend the Employment Contract as follows:

- 1) *On page 1, under "Description of Work and Services", strike "(ix)" and substitute the following:*

(ix) to provide a wide range of related administrative tasks, including those set forth on the job description attached hereto.
- 2) *On page 2, under "Basis of Payment", strike no. 2 and substitute the following:*

2. Employee shall work forty (40) hours per week. No overtime payment or compensatory time shall be allowed.
- 3) *On page 2, under "General", in line 2 of Item No. 1, strike "December 31, 1997" and substitute "December 1, 1997"; and in line 3 of Item No. 1, strike "December 31, 1997" and substitute "December 1, 1997".*
- 4) *On page 3, strike no. 4 and substitute the following:*

4. Employee shall accrue annual leave (a.k.a.

vacation leave) at the rate provided for exempt service employees. Accumulated annual leave may be used at any time subject to the approval of the Mayor.

Seconded. CARRIED on voice vote.

Alderman Snowden moved to amend the Employment Contract as follows:

On page 2, under "Basis of Payment", Item No. 1, strike "City Pay Grade C38, Step 7 (annual equivalent of \$60,801.00)." and substitute "City Pay Grade C38, Step 3 (annual equivalent of \$50,020.00)".

Seconded. A ROLL CALL vote was taken:

YEAS: Aldermen Tullier, Snowden, DeGraff
NAYS: Mayor Hopkins, Aldermen Hammond, Johnson,
Gilmer, Turner, Moyer
DEFEATED: 6-3

A ROLL CALL vote was taken on the main motion, as amended:

YEAS: Mayor Hopkins, Aldermen Hammond, Johnson,
Gilmer, Tullier, Turner, DeGraff, Moyer
NAYS: Alderman Snowden
CARRIED: 8-1

SPECIAL PRESENTATIONS AND AWARDS

Mayor Hopkins presented the following awards:

Travis Pastrana	Distinguished Citizenship
Jeff Holland	Proclamation - Poet-Laureate of Eastport
George Phillips	Proclamation - George Phillips Appreciation Day

Mayor Hopkins and Alderman DeGraff presented Fire Chief Sherlock with the Life Safety Achievement Award.

Mayor Hopkins presented Appreciation Awards to Anna Greenberg, Chair, Annapolis 300 Mural Committee and Linnell Bowen, Executive Director, Annapolis 300.

PETITIONS, REPORTS AND COMMUNICATIONS

1. Robert Eades
36 Pleasant Street
Annapolis, Md. 21401

Spoke in support of Resolution R-54-95.

2. Lucy Oppenheim
17C Heritage Court
Annapolis, Md. 21401

Spoke in support of Resolution R-54-95.

3. Louise Beauregard
2 Maryland Avenue
Annapolis, Md. 21401

Spoke regarding Resolution R-44-95.

4. Peter Montique
Representing the New Party
423 Burnside Street
Annapolis, Md. 21403

Spoke in support of Resolution R-54-95.

5. Connell Hunt
1841 Bowman Court
Annapolis, Md. 21401

Spoke in support of Resolution R-54-95.

6. Robert Emmet
Hillsmere
Annapolis, Md. 21403

Spoke in support of Resolution R-47-95.

7. Robert Liley
134 Conley Drive
Annapolis, Md. 21403

Spoke in support of Resolution R-47-95.

8. Jim Duignan, owner
Steak-Out
Forest Drive
Annapolis, Md. 21401

Spoke regarding Resolution R-47-95.

9. John Barbo, President,
Sons of Italy
331 Edgemere Drive
Annapolis, Md. 21403

Spoke regarding Annapolis Boat Show vendors.

ACTION ON APPLICATIONS AND APPEALS

1. **R-50-95** For the purpose of approving the application of William George Patton for a conditional use to expand an existing restaurant/bar located at 400-408 Fourth Street in the City of Annapolis, subject to certain conditions; and all matters relating to said conditional use.

Alderman Snowden moved to approve R-50-95. Seconded. CARRIED on voice vote.

2. **R-28-95 Revised** For the purpose of annexing certain property lying on Bembe Beach Road, contiguous to the existing boundary of the City of Annapolis.

Alderman Moyer moved to adopt R-28-95 Revised. Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Hammond, Johnson, Gilmer, Tullier,
Snowden, Turner, DeGraff, Moyer
CARRIED: 9-0

There being no voiced objection, the order of the Agenda was amended.

RESOLUTIONS

R-47-95 For the purpose of approving, subject to certain conditions, the final plat for "Parkway, Section III", a subdivision on Hilltop Lane in the City of Annapolis; and all matters relating to said plat.

Alderman Turner moved to substitute R-47-95 Revised for R-47-95. Seconded.
CARRIED on voice vote.

Alderman Turner moved to adopt R-47-95 Revised. Seconded.

Alderman Turner moved to amend R-47-95 Revised as follows:

On page 2, line 8, immediately following "maintained" insert "by the developer".

Seconded. CARRIED on voice vote.

Alderman DeGraff moved to adopt R-47-95 Revised as amended. Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Hammond, Johnson, Gilmer, Tullier,
Snowden, Turner, DeGraff, Moyer
CARRIED: 9-0

R-54-95 For the purpose of recommending that restaurants delivering food in Annapolis provide those services to all Annapolis residents without regard to the location of the delivery; and all matters relating to said recommendation.

Alderman Gilmer moved to adopt R-54-95. Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Hammond, Johnson, Gilmer, Snowden,
Moyer
NAYS: Aldermen Tullier, Turner, DeGraff
CARRIED: 6-3

The regular order of the Agenda was resumed.

LEGISLATIVE ACTION

ORDINANCES

- O-92-94** For the purpose of amending the provisions governing the continuance and expansion of legally nonconforming uses; regulating the bulk of accessory structures; and amending the boundaries for the Residential Conservation Overlay District; and all matters relating to said District.

Alderman Snowden moved to adopt O-92-94 on second reading. Seconded.

Alderman Moyer moved to amend O-92-94 as follows:

Amendment No. 1:

On Page 2, line 24, immediately following the period add the following:

"IN ADDITION TO USES PERMITTED IN THE UNDERLYING ZONE, THE FOLLOWING USES ARE PERMITTED IN THE RC, RESIDENTIAL CONSERVATION OVERLAY DISTRICT:

1. SINGLE-FAMILY RESIDENTIAL ATTACHED AND DETACHED DWELLINGS LAWFULLY EXISTING ON NOVEMBER 19, 1990 SHALL BE DEEMED TO BE CONFORMING AND MAY BE EXPANDED FOR RESIDENTIAL USE IF THEY OTHERWISE MEET THE REQUIREMENTS OF THIS DISTRICT. HOWEVER, UNDER NO CIRCUMSTANCES SHALL UNLAWFUL USES OCCUPYING SUCH RESIDENCES ON THE DATE OF THE ORDINANCE FROM WHICH THIS SECTION DERIVES AS OF NOVEMBER 19, 1990 BE DEEMED CONFORMING.
2. NON-RESIDENTIAL USES LAWFULLY EXISTING AS OF NOVEMBER 19, 1990, EXCEPT AS FOLLOWS:
 - A. ANY INCREASE IN THE BUILDING BULK OF THESE USES WILL REQUIRE CONDITIONAL USE APPROVAL PURSUANT TO CHAPTER 21.72.
 - B. WAREHOUSE, STORAGE AND/OR DISTRIBUTION USES AND AUTOMOTIVE SERVICE USES MAY APPLY FOR A CONDITIONAL USE PERMIT PURSUANT TO CHAPTER 21.72 TO BECOME CONFORMING PROVIDED THAT SUCH CONDITIONAL USE PERMIT APPLICATION IS MADE WHILE THE USE RETAINS ITS NONCONFORMING RIGHTS UNDER CHAPTER 21.70."

Amendment No. 2:

On Page 3, strike lines 11 through 13 in their entirety; on that same page, line 16, strike "2." and substitute "1.".

Amendment No. 3:

On Page 3, line 22, immediately following "LINE" add "EXCEPT REAR PROPERTY LINES ADJACENT TO AN ALLEY".

Amendment No. 4:

On Page 3, strike lines 24 and 25 in their entirety and substitute the following:

"1. THE STRUCTURE SHALL HAVE A CORNICE HEIGHT NOT TO EXCEED EIGHT FEET AND A RIDGE HEIGHT OF SIXTEEN FEET, EXCEPT THAT DUE TO PHYSICAL CONSTRAINTS OR IN ORDER TO ACHIEVE COMPATIBLE DESIGN, THE DIRECTOR OF PLANNING AND ZONING MAY ALLOW A TWO FOOT TOLERANCE TO THE CORNICE HEIGHT AND A FOUR FOOT TOLERANCE TO THE RIDGE HEIGHT."

Amendment No. 5:

On Page 3, line 43, immediately following "face" add ". EXCEPT THAT THE DIRECTOR OF PLANNING AND ZONING MAY ALLOW A TOLERANCE OF NO MORE THAN TEN PERCENT OF THE AVERAGE HEIGHT UPON A FINDING THAT THIS TOLERANCE IS NECESSARY TO PROVIDE FOR ADEQUATE LIVING SPACE AND THAT THE TOLERANCE WILL NOT PROMOTE INCOMPATIBLE DESIGN OR DIMINISH AN ADEQUATE SUPPLY OF LIGHT AND AIR TO ADJACENT PROPERTIES, AND THAT THIS TOLERANCE SHALL NOT PERMIT BUILDINGS GREATER IN HEIGHT THAN THE MAXIMUM HEIGHT ALLOWED IN THE UNDERLYING ZONE."

Seconded. CARRIED on voice vote.

Alderman DeGraff presided over the meeting from 9:35 p.m. to 9:45 p.m.

Alderman Snowden moved to adopt O-92-94 Amended on second reading. Seconded. CARRIED on voice vote.

Alderman Turner moved to adopt O-92-94 Amended on third reading. Seconded. CARRIED on voice vote.

Alderman Tullier requested the record reflect his abstention on O-92-94.

O-42-95 For the purpose of clarifying and revising the procedures governing disability examinations obtained for employment purposes; and all matters relating to said procedures.

Alderman Snowden moved to adopt O-42-95 on second reading. Seconded.

Alderman Johnson moved to amend O-42-95 as follows:

Amendment No. 1:

On Page 2, line 31, immediately following "WORK DAYS" insert "DURING ANY TWELVE CONSECUTIVE MONTH PERIOD".

Amendment No. 2:

On Page 3, line 8, immediately following "CHAPTER" insert "NOT MORE THAN ONCE".

Amendment No. 3:

On Page 3, line 19, immediately following "DIRECTOR" strike "MAY ADOPT" and substitute "SHALL RECOMMEND TO THE CITY COUNCIL".

Seconded. CARRIED on voice vote.

Alderman Snowden moved to adopt O-42-95 Amended on second reading. Seconded. CARRIED on voice vote.

Alderman Johnson moved to adopt O-42-95 Amended on third reading. Seconded.
CARRIED on voice vote.

- O-58-95** For the purpose of authorizing certain civil service employees to receive certain personal leave days; and all matters relating to said personal leave days.

The Rules Committee reported favorably on O-58-95.

Alderman Snowden moved to adopt O-58-95 on second reading. Seconded.
CARRIED on voice vote.

Alderman Snowden moved to adopt O-58-95 on third reading. Seconded.
CARRIED on voice vote.

- O-60-95** For the purpose of authorizing an amendment to the Water Service Agreement dated October 23, 1995 between the City of Annapolis and Constellation Bay Ridge Ltd. Partnership (a/k/a Colonial Manor Nursing Home) so as to provide that Constellation Bay Ridge Ltd. Partnership shall pay for water services under said Agreement at the rate for customers within the City; and all matters relating to said Agreement.

Alderman Tullier recused himself due to a possible conflict of interest.

The Finance Committee reported favorably on O-60-95 with amendments.

Alderman Snowden moved to adopt O-60-95 on second reading. Seconded.

Alderman Snowden moved to amend O-60-95 as follows:

Amendment No. 1:

On Page 2, line 24, immediately following "property" strike "only"; on that same line, immediately following "ordinance" strike the period and add "provided an agreement requires the user to make annual payments to the City in amounts equivalent to City real property taxes which would be imposed if the property were in the City; and".

Amendment No. 2:

On Page 2, line 25, add the following:

"WHEREAS, _____ the October 23, 1995 Agreement by its existing terms requires the user to make such annual payment to the City."

Amendment No. 3:

On Page 2, line 27, immediately following "amended", insert ", by an addendum thereto executed on behalf of the City by the Mayor,""; on that same page, line 29, immediately prior to "For" insert "9".

Amendment No. 4:

On page 2, line 34, add:

SECTION II: BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the City Attorney shall prepare an additional amendment to the Agreement to clarify the parties' intention that

the user shall make the annual payments described in City Code Section 16.08.050B regardless of the users' tax exempt status.

and on page 2, line 35 strike "SECTION II" and substitute "SECTION III" in lieu thereof.

Seconded. CARRIED on voice vote.

Alderman Snowden moved to adopt O-60-95 Amended on second reading. Seconded. CARRIED on voice vote.

Alderman Johnson moved to adopt O-60-95 Amended on third reading. Seconded. CARRIED on voice vote.

O-61-95 For the purpose of authorizing an amendment to the Water Service Agreement dated October 20, 1995 between the City of Annapolis and St. Anne's Day School so as to provide that St. Anne's Day School shall pay for water services under said Agreement at the rate for customers within the City; and all matters relating to said Agreement.

Alderman Snowden moved to adopt O-61-95 on second reading. Seconded.

Alderman Snowden moved to amend O-61-95 as follows:

Amendment No. 1:

On Page 2, line 22, immediately following "property" strike "only"; on that same line, immediately following "ordinance" strike the period and add "provided an agreement requires the user to make annual payments to the City in amounts equivalent to City real property taxes which would be imposed if the property were in the City; and".

Amendment No. 2:

On Page 2, line 23, add the following:

"WHEREAS, the October 20, 1995 Agreement by its existing terms requires the user to make such annual payment to the City."

Amendment No. 3:

On Page 2, line 25, immediately following "amended", insert ", by an addendum thereto executed on behalf of the City by the Mayor,"; on that same page, line 27, immediately prior to "For" insert "6.".

Amendment No. 4:

On page 2, line 34, add:

SECTION II: BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the City Attorney shall prepare an additional amendment to the Agreement to clarify the parties' intention that the user shall make the annual payments described in City Code Section 16.08.050B regardless of the users' tax exempt status.

and on page 2, line 35 strike "SECTION II" and substitute "SECTION III" in lieu thereof.

Seconded. CARRIED on voice vote.

Alderman Turner moved to adopt O-61-95 Amended on second reading. Seconded.
A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Hammond, Johnson, Gilmer, Snowden,
Turner, DeGraff, Moyer

CARRIED: 8-0

Alderman Snowden moved to adopt O-61-95 Amended on third reading. Seconded.
CARRIED on voice vote.

O-64-95 For the purpose of authorizing the 1996 Spring Boat Show and Waterfront Festival Agreement which Agreement includes a provisions to lease to International Boat Shows, Inc., body corporate, certain municipal parking areas on Compromise Street between the Fleet Reserve Club and Fawcetts Boat Supply and the Donnor lot and Susan Campbell Park on the City Dock, for a certain period of time, subject to certain terms, provisions, and conditions, for the purpose of conducting said Spring Boat Show and Waterfront Festival; and all matters relating to said lease.

Alderman Gilmer moved to adopt O-64-95 on first reading. Seconded. CARRIED on voice vote.

Referred to the Finance Committee.

O-65-95 For the purpose of establishing City policy and laws governing the extension of City water and sewer service to users outside the City boundaries; establishing those policies and laws so as to discourage and to limit the extension of water and sewer service outside the City and to create incentives for users outside the City who do receive City water and/or service to petition for annexation; and all matters relating to said policies.

Alderman Gilmer moved to adopt O-65-95 on first reading. Seconded. CARRIED on voice vote.

Referred to the Environmental Matters Committee.

RESOLUTIONS

R-44-95 For the purpose of urging the Maryland General Assembly to oppose the establishment of casino gambling in Maryland; and all matters relating to said opposition.

Alderman Snowden moved to adopt R-44-95. Seconded. CARRIED on voice vote.

Aldermen Gilmer and Moyer requested the record reflect their abstention on R-44-95.

R-51-95 For the purpose of suspending the parking meter fees for the holiday season beginning December 16, 1995 through and including December 25, 1995; and all matters relating to said parking meter fees.

Alderman Johnson moved to adopt R-51-95. Seconded. CARRIED on voice vote.

R-52-95 For the purpose of waiving certain fees for parking in certain parking facilities owned by the City for a certain time period; and all matters relating to said fees.

Alderman Snowden moved to adopt R-52-95. Seconded. CARRIED on voice vote.

R-53-95 For the purpose of revising the hourly rate for all City parking meters; and all matters relating to said parking meters.

Alderman Turner moved to adopt R-53-95. Seconded. CARRIED on voice vote.

R-55-95 For the purpose of approving amendments to the existing cable television franchise agreement with United CATV, Inc. d/b/a TCI Cablevision of Annapolis; and all matters relating to said franchise agreement.

Alderman Turner moved to adopt R-55-95. Seconded. CARRIED on voice vote.

BUSINESS AND MISCELLANEOUS

1. Finance Committee Minutes of 11/30/95

Alderman Snowden moved to approve the Finance Committee Minutes of 11/30/95. Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Johnson, Gilmer, Snowden, DeGraff, Moyer

NAYS: Alderman Turner

ABSTAIN: Alderman Hammond

CARRIED: 6-1-1

2. Payment of Monthly Bills

Alderman Snowden moved to pay the monthly bills. Seconded. CARRIED on voice vote.

3. Appointments

Alderman Snowden moved to confirm the Mayor's appointments of the following named persons as set forth in Memoranda from Mayor Alfred A. Hopkins dated 12/4/95 and 12/12/95:

Human Relations Commission: Jacqueline I. Allsup
David J. Harris
De Lorna Goodwyn

Seconded. CARRIED on voice vote.

Upon motion duly made, seconded and adopted, the meeting was adjourned at 10:15 p.m.

**Patricia L. Bembe, CMC/AAE
City Clerk**